

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
CITY OF APACHE JUNCTION

THIS AGREEMENT is entered into 24th April, 2003, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF APACHE JUNCTION acting by and through its MAYOR and CITY COUNCIL (the "City")

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City

3. Congress has authorized appropriations for, but not limited to, the design and construction of streets and primary, feeder and farm-to-market roads; the replacement of bridges; the elimination of roadside obstacles; and the application of pavement markings

4. Such project within the boundary of the City has been selected by the City; the field survey of the project has been completed; and the plans, estimates and specifications have been prepared and, as required, submitted to the Federal Highway Administration ("FHWA") for approval

5. The only interest of the State in this project is in the acquisition of Federal Funds for the use and benefit of the City by reason of federal law and regulations under which funds for the project are authorized to be expended

NO. 25970
Filed with the Secretary of State
Date Filed: 04/24/03
Janice K. Brewer
Secretary of State

By: Timothy D. Traenkle

6. The work embraced by this agreement and the estimated cost is as follows: Paving Smoketree and Warner Streets – PM-10 Paving

Estimated Project Cost (include 15% CE cost)	\$142,856.00
Estimated 5% Contingency	\$ 7,144.00
Estimated Total Project Cost	\$150,000.00
Shared Federal Funds (COG TIP Cap)	\$100,000.00
Shared Local Agency Funds (COG TIP 5.7% of \$106,045.00)	\$ 6,045.00
Estimated Local Agency Funds @ 100%	\$ 43,955.00
Estimated Local Agency Funds	\$ 50,000.00

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State will submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for construction.

a. If such project is approved for construction by FHWA and the funds are available for construction of the project, the City with the aid and consent of FHWA and the State will proceed to bid and construct the project; such project to be performed, completed, accepted and paid for in accordance with the approved plans and specifications. The State will enter into a Project Agreement with FHWA covering the work embraced in said construction and will request the maximum federal funds available.

b. Should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for in this agreement, the City shall be obligated to incur any expenditure in excess

2. Prior to construction, the City shall set aside sufficient funds in the amount determined to be necessary to match 5.7% of the Federal Funds.

3. The City shall acquire, without cost to the State, the necessary right-of-way and hereby certifies that all necessary rights-of-way have been acquired.

4. The City shall remove from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the roadway, and hereby certifies that all obstructions and encroachments have been removed therefrom, prior to the start of construction.

5. The City shall not permit or allow any encroachments, except those authorized by permit, upon, or private use of, the right of way. In the event of any unauthorized encroachment or improper use, the City shall take all necessary steps to remove or prevent any such encroachment or use; failing in which the State shall have the right to proceed with the removal or prevention thereof, the cost of such removal or prevention to be borne by the City.

6. Upon completion of construction, the City shall provide maintenance unless assumed by another governmental entity

7. The City will provide personnel to administer and supervise construction. All construction project change orders are to be copied to the State.

8. The City will complete the project in accordance with approved plans and specifications and the requirements of the relevant State and federal statutes, rules, or regulations. In the event the City fails to comply with the plans, specifications or any relevant State or federal statutes, rules, or regulations, the City shall hold the State harmless from any claims or costs incurred by the State as a result of the City's failure to comply.

9. State employees may perform any inspections of the Project or audit any books or records of the City in order for the State to assure itself that the monies on the Project have been spent and the Project completed in accordance with the plans and specifications, statutes, rules, and regulations of the State and Federal Government.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement. The City assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation or attorneys' fees.

2. This agreement shall remain in force and effect until completion of the work and related deposits or reimbursements.

3. This agreement shall become effective upon filing with the Secretary of State.

4. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

6. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.


7. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007
FAX (602) 712-7424

City of Apache Junction
City Manager
1001 North Idaho Road
Apache Junction, AZ 85219

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written

CITY OF APACHE JUNCTION

By 
DOUGLAS COLEMAN
Mayor

STATE OF ARIZONA
Department of Transportation

By 
SUSAN TELLEZ
Contract Administrator

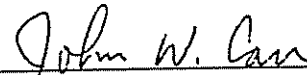
ATTEST

By 
KATHY CONNELLY
City Clerk

RESOLUTION

BE IT RESOLVED on this 4th day of November, 2002, that I, the undersigned VICTOR M. MENDEZ, as Director of the ARIZONA DEPARTMENT OF TRANSPORTATION, have determined that it is in the best interests of the STATE OF ARIZONA that the DEPARTMENT OF TRANSPORTATION, acting by and through the INTERMODAL TRANSPORTATION DIVISION, to enter into an agreement with the CITY OF APACHE JUNCTION, for the purpose of defining responsibilities for the acquisition of federal funds, for the use and benefit of the paving improvements to Smoketree and Warner Streets – PM-10 Paving.

Therefore, authorization is hereby granted to draft said agreement, which, upon completion, shall be submitted to the Contract Administrator for approval and execution.



JOHN W. CARR, P.E., Staff Engineer
Development / Intermodal Transportation Division
for VICTOR M. MENDEZ, Director

INTERGOVERNMENTAL AGREEMENT BETWEEN THE
CITY OF APACHE JUNCTION AND THE ARIZONA
DEPARTMENT OF TRANSPORTATION FOR THE
PAVING OF SMOKETREE STREET BETWEEN
MERIDIAN DRIVE AND DELAWARE DRIVE ALONG
WITH WARNER DRIVE BETWEEN LOST DUTCHMAN
BOULEVARD AND TEPEE STREET _____)

) City Engineer Ron Gritman
briefed the council on the item. The original project was to pave
Mountain View Road from north of its current pavement end to Highway 88.
However, ownership of the right-of-way was in question so the Department
of Transportation would not award the contract. The project and scope
was redesigned to pave the streets as outlined. They were picked
because the city is trying to cover the same amount of dirt roads with
pavement. As these are air quality funds, they have to be used to pave
dirt roads. These roads work with development that has recently
occurred in the area. They will link and network with those started in
the northwest area of the city.

Mayor Coleman called for any
discussion by the council. There being no discussion, he called for a
motion.

Councilmember Durbala MOVED
THAT THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF APACHE JUNCTION
AND THE ARIZONA DEPARTMENT OF TRANSPORTATION TO USE FEDERAL AIR QUALITY
FUNDS (CMAQ FUNDS) FOR THE PAVING OF SMOKETREE STREET BETWEEN MERIDIAN
DRIVE AND DELAWARE DRIVE AND WARNER DRIVE BETWEEN LOST DUTCHMAN
BOULEVARD AND TEPEE STREET BE APPROVED. AND THAT AUTHORIZATION BE GIVEN
FOR THE MAYOR TO SIGN THE AGREEMENT.

Councilmember Dietz SECONDED
THE MOTION.

VOTE: Unanimous

The motion carried.



City of Apache Junction

Home of the Superstition Mountains

George R. Hoffman
City Manager

Kathleen Connelly
City Clerk

CERTIFICATE

I certify that I am the duly appointed, qualified, and acting City Clerk of the City of Apache Junction, Arizona, that as such, I have in my possession the attached portion of the document entitled Minutes of the Apache Junction City Council dated January 7, 2003; and that the attached is a true and correct copy of a portion of the approved Minutes of the Apache Junction City Council dated January 7, 2003.

April 8, 2003
Date

Kathleen Connelly
Kathleen Connelly
City Clerk



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE 602.542.8855

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR02-02051TRN (JPA 02-163), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED April 16, 2003.

TERRY GODDARD
Attorney General

A handwritten signature in cursive script, reading "Susan E. Davis", is written over a horizontal line.

SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

/ss

att.

APPROVAL OF THE CITY OF APACHE JUNCTION ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF APACHE JUNCTION and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 20TH day of MARCH, 2003.

A handwritten signature in black ink, appearing to be 'J. B. Smith', is written over a horizontal line.

Attorney